

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) CASE NO. 8:08CR209
)
Plaintiff,)
)
vs.) MEMORANDUM
)
JAYNE WEBER,) AND ORDER
)
Defendant.)

This matter is before the Court on the Defendant's amended motion for leave to hire an expert (Filing No. 41).

The Defendant pleaded guilty to Count I of the Indictment charging her with a violation of 18 U.S.C. § 1343. Defense counsel is retained. The Defendant's request is made in light of the government's assertion of the loss amount and the Defendant's right, reserved in the plea agreement, to contest this amount. The government asserts that the loss amount for guideline and restitution purposes is approximately \$500,000. (Filing No. 23.)

A form entitled CJA 21 was submitted to Magistrate Judge Gossett with a letter request. The Defendant's previous motion for leave to hire an expert (Filing No. 36) was denied (Filing No. 40). In denying the motion, the Court stated:

[T]he Defendant and defense counsel must adhere to 18 U.S.C. § 3006A(e)(1) and CJA Guidelines Ch. III, Part A, Section 3.01 (CJA Guideline § 3.01). Section 3006A(e)(1) requires that counsel "for a person who is financially unable to obtain" services may request funds to obtain them. Requirement for a person represented by retained counsel to obtain access CJA funds are set forth in CJA Guideline § 3.01. *The Defendant may satisfy the requirements of § 3006A(e)(1) and CJA Guideline § 3.01 by affidavit.*

(Filing No. 40 (emphasis added).)

The amended motion (Filing No. 41) is accompanied by a copy of the order appointing defense counsel on February 21, 2007, in the Defendant's grand jury case and the Defendant's financial affidavit dated January 9, 2007, apparently submitted in support of her request for appointed counsel in her grand jury matter. (Filing No. 42.) However, the amended motion is not accompanied by a financial affidavit showing the Defendant's present financial status. Her present financial status is of concern to the Court because after counsel was appointed in the grand jury proceedings, he was retained by the Defendant in May of 2008, according to Court records. (Filing No. 5.)

IT IS ORDERED that the Defendant's amended motion for leave to hire an expert (Filing No. 41) is denied without prejudice.

DATED this 5th day of December, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge